

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STEVE SANDS,

Plaintiff,

- against -

BAUER MEDIA GROUP USA, LLC

Defendant.

Docket No. 1:17-cv-9215

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Steve Sands (“Sands” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Bauer Media Group USA, LLC, (“Bauer” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of two copyrighted photographs American model and actress Emily Ratajkowski, owned and registered by Sands, a New York based professional photographer. Accordingly, Sands seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Sands is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 568 Grand Street, Apt. J903, New York, New York 10002.

6. Upon information and belief, Bauer is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 58 West 40<sup>th</sup> Street, 5<sup>th</sup> Floor, New York, New York 10018. Upon information and belief, Bauer is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material, hereto, Bauer has owned and operated a website at the URL: [www.FHM.com](http://www.FHM.com) (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photographs**

7. Sands photographed American model and actress Emily Ratajkowski (the “Photographs”). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Sands is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

10. The Photographs are registered with the United States Copyright Office and were given registration number VA 2-036-401.

#### **B. Defendant’s Infringing Activities**

11. On March 13, 2017 Bauer ran an article on the Website entitled *Emily Ratajkowski: New DKNY Ad is Just Her Walking a Dog in Lingerie*. The article prominently

featured the Photographs. Screen shots of the Photographs on the article are attached hereto as Exhibit B.

12. Bauer did not license the Photographs from Plaintiff for its article, nor did Bauer have Plaintiff's permission or consent to publish the Photographs on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST BAUER)**  
**(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Bauer infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Bauer is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Bauer have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Bauer be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
November 22, 2017

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz  
Richard P. Liebowitz  
11 Sunrise Plaza, Suite 305  
Valley Stream, New York  
Tel: 516-233-1660  
RL@LiebowitzLawFirm.com  
*Attorneys for Plaintiff Steve Sands*